

# EXHIBIT H

P.J. Corless

March 25, 2008

Pomona, NY

Page 1

2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----

5 BRIARWOOD FARMS, INC.,  
6 Plaintiff.

7 - vs - 07civ. 3657 (clb)

8 TOLL BROS., INC.  
9 Defendant.

10 -----

11 TUESDAY, MARCH 25, 2008  
12 1:08 P.M.

13 DEPOSITION of P.J. CORLESS, called for  
14 examination by counsel for the Defendants, held  
15 at the Pomona Village Hall, 100 Ladentown Road,  
16 Pomona, New York 10870, before Nancy Anne Flynn,  
17 Registered Professional Reporter and a Notary  
18 Public in and for the State of New York, and  
19 transcribed under her direction.

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**CERTIFIED COPY**

1 A P P E A R A N C E S :

2

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## 8 EXHIBITS

## 9 DEFENDANT'S DESCRIPTION PAGE

10 A Chapter 119 of Village Code re 9

11 steep slopes law.

12 B Copy of chapter 118 of the Village 13

13 Code re Subdivision Land.

14 C Cover Sheet Preliminary Subdivision 34

15 Halley Estates II.

16 C-1 Drawing number seven from Exhibit C, 39

17 drawing entitled "Disturbed Slope Map."

18 D One-page village calendar. 36

19 E Documents received pursuant to FOIL 47

20 request.

21 (Exhibits retained)

22

23

24

25

1 P.J. CORLESS,

2 having been duly sworn by a Notary

3 Public for the State of New York,

4 testified as follows:

5 EXAMINATION BY

6 BY MR. HARRINGTON:

7 Q Good afternoon, Mr. Corless.

8 A Good afternoon.

9 Q My name is Bill Harrington and I'm  
10 with the firm of Bleakley, Platt & Schmidt in  
11 White Plains, and we represent Toll Bros in a  
12 lawsuit, which is the defendant in a lawsuit  
13 brought in the Southern District of New York by  
14 Briarwood Farms, Inc.

15 You are here today pursuant to  
16 subpoena, correct?

17 A Yes.

18 Q Can you give, please, the reporter  
19 for the record your address, and you can use the  
20 village address if you like.

21 A No, I use my home address, 44 Halley  
22 Drive, Pomona, New York.

23 Q Can you just briefly outline your  
24 educational background for me?

25 A I have a Bachelor's of Civil

1 P.J. Corless

2 Engineering, a Master's of Business in Economics  
3 and a Master's in Environmental Technology, and  
4 licensed as a Professional Engineer in New York  
5 and New Jersey and licensed as a land surveyor as  
6 well.

7 Q Have you ever been deposed before?

8 A Yes, I have.

9 Q So, you know generally the rules?

10 A Generally.

11 Q Let me go through them very  
12 briefly. Please allow time to expire between  
13 when I ask the question and you respond so the  
14 reporter can get everything down. If you don't  
15 understand a question, please let me know and I  
16 will try and rephrase it in a fashion so you can  
17 understand it. Please give audible responses to  
18 all my questions, and in the event you don't know  
19 the answer to my question, please tell me.

20 A Okay.

21 Q Don't guess. To the extent I ask a  
22 question and it's not clear, please tell me, all  
23 right?

24 A Yes.

25 Q Okay. Now, did you speak to anyone

1 P.J. Corless

2 in preparation for this deposition?

3 A The village attorney, I told her I  
4 was given a subpoena, and that was all.

5 Q Did you review any documents?

6 A I did not.

7 Q Are you aware of the nature of the  
8 lawsuit between the parties?

9 A No.

10 Q Who is your current employer?

11 A I'm self-employed, Corless &  
12 Associates Engineers. I am under contract with  
13 the Village of Pomona for the past 31 years.

14 Q In what capacity do you contract  
15 with the Village of Pomona?

16 A As the village engineer.

17 Q And you've held that position for  
18 the last --

19 A Thirty-one.

20 Q So it's fair to say that you're  
21 familiar with the Village Code of the Village of  
22 Pomona?

23 A I'm reasonably familiar with it,  
24 yes.

25 Q In your capacity as village

1 P.J. Corless

2 engineer, do you ever work with the village's  
3 planning board?

4 A Yes.

5 Q And in that work do you become  
6 involved with the planning board's review of  
7 proposed subdivision applications?

8 A I do.

9 Q Does the village have a steep slope  
10 law?

11 A Yes, it does.

12 Q And are you familiar with it  
13 generally?

14 A I'm familiar with it, yes.

15 Q In your capacity as village  
16 engineer, have you ever been involved with the  
17 planning board's review of a subdivision  
18 application involving steep slopes?

19 A Yes, I have.

20 Q Can you describe for me in general  
21 terms what the planning board does with respect  
22 to a subdivision application that involves land  
23 that has steep slopes as defined by the  
24 ordinance?

25 A The applicant is required to produce



1 P.J. Corless  
2 maps that have topography illustrating two-foot  
3 contours, and then that piece of land is  
4 identified for slopes within various percentages  
5 up to 15 percent, up to 24 percent, and greater  
6 than that, in general terms. And the purpose of  
7 that is to determine the amounts of steep slopes,  
8 extremely steep slopes, and moderate slopes.

9 Q And what is the significance, if  
10 any, of property that is defined as moderate,  
11 extreme, or however the ordinance defines it?

12 A The intent of the ordinance was to  
13 have the applicant evaluate the necessity to  
14 build on steep slopes, and to encourage not to  
15 build on the steep slopes so that you don't  
16 create erosion control and soil problems related  
17 to that kind of construction.

18 Q And that would also lead to  
19 potential runoff and water pollution, correct?

20 A Yes.

21 MR. HARRINGTON: I'm going to  
22 mark as Exhibit A, Chapter 119 of what  
23 I understand is the Village Code, which  
24 we obtained on line, which is the steep  
25 slopes law, which is entitled Site

1 P.J. Corless

2 Development.

3 (Chapter 119 of Village Code re  
4 steep slopes law was marked as  
5 Defendant's Exhibit A for  
6 identification.)

7 Q Mr. Corless, I show you what we  
8 marked as Exhibit A. I can represent we obtained  
9 it off the website. If you could just in general  
10 review it very quickly and confirm for me that  
11 that is, in fact, the Village's steep slope law?

12 A It looks like our law. I brought my  
13 code book with me, it looks like our --

14 Q I'm not trying to trick you.

15 A I understand. It looks like the law  
16 we've discussed, moderately steep, very steep,  
17 and extremely steep.

18 Q Let's go through it a little bit.  
19 If you could look at section 119-1, subsection  
20 (a) would be the second page.

21 A Yes.

22 Q That defines moderately steep slope,  
23 very steep slope, and extremely steep slope; do  
24 you see that?

25 A Yes.

1 P.J. Corless

2 Q And that's what you referred to  
3 earlier?

4 A Yes.

5 Q What is your understanding of the  
6 purpose of creating three categories of slope?

7 A The purpose, again, was to control  
8 land disturbance on areas that would result in  
9 water pollution impacts and perhaps even some  
10 slope unstabilization, et cetera.

11 Q Okay. Now, if you could refer to  
12 Section 119-2, which is Article 2 of the  
13 ordinance?

14 A Yes.

15 Q And subsection (a) states, quote,  
16 "Regulated Activities: It shall be unlawful to  
17 create a new steep slope or to disturb an  
18 existing steep slope, or to create any other  
19 disturbance of land on a steep slope, including  
20 the installation of retaining walls, other than  
21 an exempt activity as defined in subsection (b)  
22 hereof without having first obtained site plan  
23 approval from the planning board or such other  
24 approving authority as provided in this chapter  
25 and a work permit from the building inspector."

1 P.J. Corless

2 Now, is that your understanding of  
3 the law?

4 A Yes.

5 Q If you go to section 119-4 under the  
6 title Approving Authority, the permit in question  
7 is known as a site development plan permit; is  
8 that right?

9 A Yes.

10 Q And is it fair to say that under the  
11 law, where you have either a very steep slope as  
12 defined in the ordinance or an extremely steep  
13 slope as defined in the ordinance, that you have  
14 to get approval from the planning board for such  
15 a permit?

16 A The applicant does, yes, that's  
17 correct.

18 Q And it's only in the instances of a  
19 moderately steep slope that the village engineer  
20 can issue the permit, correct?

21 A That's correct. Actually, I review  
22 the site plan and submit a recommendation to the  
23 building inspector. He issues the building  
24 permit, if you will, I mean procedurally.

25 Q If we go to section 119-5 of Exhibit

1 P.J. Corless

2 A, that sets forth in detail the information that  
3 an applicant for a steep slope permit would have  
4 to provide, correct?

5 A Correct.

6 Q Section 119-6 of the ordinance  
7 reflects the various fees that would have to be  
8 paid by an applicant seeking a steep slope  
9 permit, correct?

10 A Correct.

11 Q And that includes fees to be placed  
12 in escrow to pay for the Village's consultants to  
13 review the application, correct?

14 A Yes.

15 Q Now, you go back to 119-4,  
16 subsection (b) states, quote, "Where the planning  
17 board is reviewing an application under the  
18 provisions of chapter 118 of the Village Code, it  
19 shall also be the approving authority for any  
20 site development plan permit required in  
21 connection with such application." What is  
22 chapter 118?

23 A Subdivision, realty subdivision, any  
24 realty subdivision falls under the planning board  
25 purview.

1 P.J. Corless

2 Q So any steep slope permit that's  
3 required in conjunction with a subdivision --

4 A Any.

5 Q -- has to be obtained from the  
6 planning board?

7 A Yes sir.

8 MR. HARRINGTON: Put that aside  
9 for a second and let me show you what  
10 we will mark as Exhibit B for  
11 identification.

12 (Copy of chapter 118 of the  
13 Village Code re Subdivision Land was  
14 marked Defendant's Exhibit B for  
15 identification.)

16 Q Mr. Corless, I am going to show you  
17 what we marked as Exhibit B, and again I'll  
18 represent to you it is a copy of chapter 118 of  
19 the Village Code entitled Subdivision Land, which  
20 we secured from the Village's website. If you  
21 could just look at it, and without going through  
22 it in detail, are you generally familiar with  
23 chapter 118 of the Village Code?

24 A I am.

25 Q That's the chapter that governs

1 P.J. Corless

2 subdivision approvals, correct?

3 A That's correct.

4 Q In the Village of Pomona, the  
5 planning board is the authority that approves  
6 subdivision applications?

7 A It is, yes.

8 Q If you look at section 118-5, on the  
9 second page it states that, "No building permit  
10 can be issued for a single-family home until  
11 final subdivision approval has been issued by the  
12 planning board," correct?

13 A Correct.

14 Q And that's generally true in most  
15 municipalities, correct?

16 A In general. Sometimes older  
17 ordinances allow model homes, but ours does not.

18 Q If you go to 118-9, it's a  
19 definition section?

20 A Yes.

21 Q And under the definition of  
22 Subdivision plat, or final plat, you see that?

23 A I don't see -- I see major  
24 subdivision, minor subdivision. Subdivision plat  
25 or final plat, okay.

1 P.J. Corless

2 Q That states, quote, "A drawing in  
3 final form, showing a proposed subdivision and  
4 containing all information or detail required by  
5 law and by these regulations to be presented to  
6 the planning board for approval, and which if  
7 approved may be duly filed and recorded by the  
8 applicant in the office of the County Clerk."

9 Now, can you please explain for me,  
10 in general, the process an applicant goes through  
11 in securing subdivision approval say, for  
12 example, a forty lot subdivision, generically the  
13 process?

14 A Applications are taken from the  
15 village clerk for subdivision. We, in this  
16 village we use the county standard form for  
17 realty subdivision. And that's completed and  
18 submitted with an environmental impact assessment  
19 form, usually the long form, because of this you  
20 say forty lots.

21 Q Right.

22 A Then the engineer together with a  
23 surveyor will map out the properties in terms of  
24 topography and boundary lines, and then lay out  
25 roads horizontally, and then do some calculations



1 P.J. Corless

2 about size of lots. We have a minimum of one  
3 acre, actually 40,000 square feet not 43,560, in  
4 our village, so they would start laying out lots.  
5 There's minimum widths and minimum depths. And  
6 they would go through that process and submit  
7 what's called a sketch plat and compare that  
8 layout.

9 The guidance would be from this  
10 section 118, our law, which spells out the widths  
11 of streets and the lengths of cul-de-sacs and the  
12 curvature, horizontal and vertical, a whole bunch  
13 of standards from which the geometry is based on  
14 for the breaking up of a large parcel into  
15 several smaller parcels.

16 And then when it is submitted for  
17 sketch, it goes through a series of iterations on  
18 changes, either brought on by the village  
19 comments or by more information being collected  
20 by the applicant related to traffic, to drainage,  
21 to water, sewer, all the utilities. So it's an  
22 involved process, generally takes a couple of  
23 years for that big a project.

24 Q Does there come a time that the  
25 applicant actually submits a formal plat or plan

1 P.J. Corless

2 to the planning board for consideration?

3 A Yes.

4 Q Does there come a time that the  
5 planning board holds a public hearing with  
6 respect to that issue?

7 A Yes, we hold both preliminary and  
8 final, and nowadays for environmental impact, so  
9 we have three.

10 Q Just so I'm clear, that initial map  
11 is known as a preliminary subdivision map,  
12 correct?

13 A Yes, in village law it's  
14 preliminary, although we treat it as a sketch,  
15 which is an old fashioned way. But it's  
16 preliminary, yes.

17 Q If we look at Section 118 in the  
18 Definition section, there is a definition for  
19 Preliminary plat?

20 A Yes.

21 Q That is the initial drawing that  
22 you're referring to, correct?

23 A That's correct.

24 Q And that's distinct from a final  
25 plat as we discussed a moment ago, correct?

1 P.J. Corless

2 A That's correct.

3 Q The final plat is in fact the plat  
4 that's been ultimately approved by the planning  
5 board, correct?

6 A Correct. Most villages issue a  
7 preliminary approval on the plat which fixes  
8 horizontal control and then they can go on to  
9 other details.

10 Q Let's talk about that.

11 A Okay.

12 Q You mentioned a moment ago that the  
13 planning board conducts a public hearing?

14 A Yes.

15 Q And presumably hears testimony from  
16 both the applicant and the public with respect to  
17 a proposed subdivision?

18 A Correct.

19 Q Then there comes a time that they  
20 close the public hearing, correct?

21 A Usually.

22 Q At some point?

23 A Yes.

24 Q At that point in time, the planning  
25 board, within a statutory period of time, has to

1 P.J. Corless

2 vote on whether to approve or not approve that  
3 preliminary subdivision?

4 A That's correct.

5 Q And if the preliminary subdivision  
6 plan is approved, what is in fact approved at  
7 that point? Again, using a 40 lot subdivision as  
8 an example.

9 A Explicitly the horizontal alignments  
10 are fixed, the number of lots are, quote,  
11 established, and the road location again  
12 horizontal control. And usually a conceptual,  
13 water, sewer, drainage, utilities, are  
14 established, and environmental issues have been  
15 resolved to get to that point.

16 Q Now, with respect to the issue of  
17 steep slopes?

18 A Yes.

19 Q In the preliminary subdivision  
20 review phase, what if any review is given by the  
21 planning board to steep slopes, as it relates to  
22 lot count and road construction?

23 A Well, the surveyor would identify  
24 and show on various hatching means on the map  
25 steep slope, extremely steep slope, you know,

1 P.J. Corless

2 those kind of things, and based upon the geometry  
3 of the site, he would attempt to lay out lots  
4 without going into extremely steep slopes and  
5 certainly avoid them for roads and those kind of  
6 things. So it's an involved process.

7 Q How about with respect to very steep  
8 slopes? And my question is with respect to very  
9 steep slopes, if a lot is comprised of entirely  
10 property or land that's characterized as very  
11 steep slope under the ordinance, what impact if  
12 any, would that have?

13 A He would lose his, some of the area  
14 proportionally to the amount of steep slopes. We  
15 don't allow them to build the roads across the  
16 steep slopes, unless there is no alternative, and  
17 we can't prevent the guy from using his property.  
18 But we do deduct, or the code refers to a  
19 deduction in area, and it's spelled out in the  
20 ordinance.

21 Q Okay. Now, once a preliminary plat  
22 is approved by the planning board, what happens  
23 next in the subdivision approval process?

24 A Well, once preliminary is received,  
25 the process is essentially on the way to

1 P.J. Corless  
2 completion. All the major issues that could  
3 prevent approval have been resolved to the  
4 satisfaction of the village planning board, and  
5 the completion of all kinds of details related to  
6 engineering and perhaps even legal issues are  
7 then put through the hoops. All the details are  
8 furnished and they're reviewed, and then we go  
9 back for --

10 And when they are satisfied to all  
11 the agencies, there are outside agencies that we  
12 refer maps to, then we set it up again for a  
13 public hearing.

14 Q If those details aren't resolved,  
15 can the preliminary plat be approved?

16 A No. Usually it's a conditioned  
17 preliminary approval.

18 Q So if I'm clear, preliminary  
19 approval is just that, it's a preliminary  
20 approval, it's not a final approval, and it's  
21 subject to certain conditions?

22 A Yes, you can imagine that there are  
23 conditions that the planning board may want the  
24 applicant to get approval of another agency, and  
25 another agency may not want to review the map

1 P.J. Corless  
2 until there is a preliminary map given, approval  
3 given. So you're caught between jurisdictions.  
4 So they would say, we will give you preliminary  
5 approval based upon your submitting to New York  
6 State Department of Transportation and getting  
7 approval for the traffic, whatever.

8 Q Okay. Let's go back to the steep  
9 slopes ordinance, in you could, that's chapter  
10 119, and if you could refer to section 119-7. I  
11 am going to read it into the record and then ask  
12 you a couple of questions.

13 A Yes.

14 Q Subsection (a) states, quote, "It is  
15 the intent of this chapter to incorporate the  
16 consideration of steep slope protection into the  
17 village's existing land use and development  
18 approval procedures in conjunction with the  
19 procedures of the New York State Environmental  
20 Quality Review Act.

21 "To the maximum extent possible the  
22 review hearings and decisions upon any  
23 application process under this chapter will run  
24 concurrently with similar procedures that the  
25 approving authority may undertake in connection

1 P.J. Corless

2 with the other applications that are directly  
3 related."

4 Now, are you familiar with that  
5 provision?

6 A I am.

7 Q And with respect to securing steep  
8 slope -- I am going to refer to it as a steep  
9 slope permit, if that's okay with you?

10 A Yes.

11 Q In conjunction with obtaining steep  
12 slope permits, can those permits be obtained in  
13 conjunction with the subdivision review process?

14 A They are obtained with, the site  
15 plan incorporates that, quote, steep slope  
16 requirements in the review process, they are not  
17 issued separately.

18 Q Let me just put a finer point on  
19 that. With respect to the process as you've  
20 defined it a moment ago, before final subdivision  
21 approval is granted by the planning board, is  
22 there anything that would prohibit an applicant  
23 from obtaining the necessary steep slope permits  
24 for a, say, a 40-lot subdivision, given this  
25 section?



1 P.J. Corless

2 A Again, for the sake of clarity and  
3 detail, if you were to have a mythical 40-lot  
4 subdivision, the applicant by his engineer and  
5 attorney, would put on a mythical house, a 40 by  
6 60 box, and show grading for that and show where  
7 that is in relation to steep slopes, and where  
8 the driveways are and where the utilities  
9 are. And when final subdivision is granted, that  
10 lot would have a steep slope approval for that  
11 mythical 40 by 60 box.

12 In the real world the house might be  
13 40 by 72 or 32 and 75, and all kinds of -- so we  
14 make them come back, whenever it's bigger, come  
15 back for another steep slope permit and another  
16 public hearing. So you could go away with  
17 approval for 40 lots, but you really don't have a  
18 specific site plan approval until you come up  
19 with a real house.

20 Q Unless, of course, you built the  
21 real house within the confines of --

22 A Correct.

23 Q In certain jurisdictions that's  
24 known as a building envelope?

25 A No, the building envelope is the

1 P.J. Corless

2 maximum extent of the house. This would be the  
3 footprint.

4 Q Okay.

5 A So in this village, if you make the  
6 footprint of the real house smaller, than the  
7 building inspector is allowed to issue a building  
8 permit. If the house is bigger in any dimension,  
9 then it's back to the planning board. So there  
10 are some fine lines.

11 Q I understand?

12 A And it varies.

13 Q At the end of the day, in order to  
14 secure final subdivision approval, an applicant  
15 must obtain steep slope approval for the mythical  
16 houses that are depicted on each lot?

17 A Correct.

18 Q If the developer subsequently wants  
19 to exceed the boundaries of that mythical house,  
20 he, she, or it has to come back to the planning  
21 board to obtain a new steep slope permit?

22 A But he does have the right to build  
23 on the mythical house footprint.

24 Q Okay?

25 A Not the building envelope.

1 P.J. Corless

2 Q Okay. And the steep slope permits  
3 are the types of the final details that you  
4 talked about between preliminary subdivision  
5 approval and final approval?

6 A Right.

7 Q If we look at section 119-7, it's  
8 fair to say that that articulates the procedures  
9 for the review and the making of the decision  
10 with respect to steep slopes?

11 A Almost more than enough detail, yes.

12 Q It goes on for --

13 A Pages.

14 Q And it's rather elaborate; is it  
15 not?

16 A Yes.

17 Q It involves an additional public  
18 hearing, correct?

19 A Correct.

20 Q And it involves a posting of a  
21 letter of credit, correct?

22 A Yes.

23 Q And it also permits the planning  
24 board to require a phased site plan review?

25 A Yes.

1 P.J. Corless

2 Q Whether or not you recommend it or  
3 not?

4 A Correct, that's a new amendment to  
5 the local law.

6 Q Okay.

7 A It's not phase site plan review,  
8 it's a phase site plan construction.

9 Q Let's look if you could, because I'm  
10 new to this ordinance. Under section C6U.

11 A 119-7?

12 Q Yes.

13 A C6U, okay.

14 Q In the first sentence it says,  
15 quote, "The planning board shall have the  
16 authority to require phase site development plan  
17 review, whether or not recommended by the  
18 building inspector or village engineer and  
19 regardless of the source of the information upon  
20 which the planning board bases its decision to  
21 require phase site development plan review."

22 What does that mean?

23 A Those words talk about the planning  
24 board reviewing the site plan in various  
25 phases. In actuality, what the planning board

1 P.J. Corless

2 does in their review, they specify steps to be  
3 taken during the construction, or phases.

4 Q Okay. If we could look at 119-9 of  
5 the ordinance, and under subsection (c) that  
6 provides that a building inspector, the building  
7 inspector, cannot issue a CO until the village  
8 engineer has verified that all the work has been  
9 completed under steep slope?

10 A Correct.

11 Q And under subsection (c) a stop work  
12 order can be issued if the work isn't properly  
13 completed?

14 A That's correct.

15 Q Now, when was this ordinance passed,  
16 the steep slope ordinance?

17 A Nineties, early nineties. It's on a  
18 while.

19 Q That's good enough. During your  
20 tenure as the village engineer, have you been  
21 involved in any subdivision applications that  
22 have involved steep slope permits?

23 A Yes, several.

24 Q Okay. Do you recall the names of  
25 any of them?

1 P.J. Corless

2 A High Gate Estates; Summit At Pomona;  
3 the one we're calling Halley II. So there are  
4 several.

5 Q Okay.

6 A Other names I don't recall.

7 Q Okay.

8 A We're running out of land, so not  
9 too much left.

10 Q Can the severity of the slope of a  
11 given lot disqualify it as a buildable lot, based  
12 upon your experience with the planning board?

13 A No, it has not, but I think the  
14 ordinance goes in that direction, but that seems  
15 to imply some sort of condemnation of land, which  
16 I don't think the village trustees want to  
17 accommodate.

18 Q Okay.

19 A In that manner.

20 Q Now, based upon your experience, we  
21 are going to talk about two distinct  
22 hypotheticals here. In a situation where the  
23 steep slope permits are secured based upon the  
24 hypothetical houses --

25 A Yes.

1 P.J. Corless

2 Q -- in conjunction with the final  
3 subdivision plat approval, typically how long  
4 does that process take, based upon your  
5 experience?

6 A From the day the application is  
7 filed until the day it's --

8 Q Yes, steep slopes. Of course, I  
9 imagine it's a function of the number of lots,  
10 but basically how long does it take?

11 MR. HASPEL: Can you rephrase  
12 that, because I got confused?

13 MR. HARRINGTON: Sure.

14 MR. HASPEL: Hopefully, the  
15 witness is smarter than me, but maybe  
16 not.

17 MR. HARRINGTON: Well, the  
18 witnesses are usually smarter than all  
19 the lawyers, but that's not here nor  
20 there.

21 Q Focusing on the first process where  
22 the steep slope approvals are secured in  
23 conjunction with the final subdivision approval,  
24 based upon the hypothetical houses, typically how  
25 long, based upon your experience with

1 P.J. Corless

2 subdivisions that range from thirty to forty  
3 lots, how long does that process take for the  
4 steep slope permits?

5 A At least twelve months and more  
6 likely twenty-four months. The number of lots is  
7 probably not the deciding factor, it's probably  
8 the objections of community members.

9 Q What kind of objections?

10 A To environmental concerns, whether  
11 real or perceived.

12 Q Okay. In the second situation where  
13 the developer comes back after securing final  
14 subdivision approval and seeks to build a house  
15 outside the parameters of the hypothetical box on  
16 the lot, based upon your experience, typically  
17 how long does it take to secure steep slope  
18 approval in that scenario?

19 A Three to six months.

20 Q Again, is that per lot or does it  
21 make a difference?

22 A Each application. You could  
23 technically do four lots in one night, but they  
24 have a public hearing procedure which there is  
25 some notice required and then there is a



1 P.J. Corless

2 landscape plan that comes after that, so that's  
3 another process.

4 So it could technically go in three  
5 months, but it usually takes six or eight months  
6 because there's turnaround times between getting  
7 an action from a board on a Thursday night and  
8 then the deadline to submit the next round of  
9 papers is Monday, so you can't do it fast enough  
10 usually.

11 Q Again, focusing on the scenario  
12 where a developer comes back and wants to build a  
13 bigger house?

14 A Yes.

15 Q In that scenario, it's fair to say  
16 that the steep slope law as we discussed it today  
17 has to be complied with again, correct?

18 A Correct.

19 Q There has to be a new public  
20 hearing?

21 A Correct.

22 Q SEQR has to be triggered, if  
23 appropriate?

24 A As appropriate. Usually it's  
25 reaffirmed, but it could be triggered for more

1 P.J. Corless

2 investigation. Certainly opens it up.

3 Everything is for sale.

4 Q It's a new process?

5 A It's a new process.

6 Q And then the planning board has to  
7 go through the criteria and the protocol that's  
8 mentioned in the law?

9 A Correct.

10 Q And that's with respect to each lot?

11 A Yes.

12 Q Now, did there come a time that as  
13 the village engineer you became involved in the  
14 planning board's review of a single-family  
15 subdivision application known as Halley Estates  
16 II?

17 A Yes.

18 Q Do you recall when that was?

19 A I think it's five or six or seven  
20 years ago. It's a few years ago.

21 Q Is there a Halley Estates I?

22 A There is.

23 Q Is that where you live?

24 A No, I live on Halley Drive, which is  
25 the street parallel to where Halley I Estates

1 P.J. Corless

2 is. That's just a short little stub street that  
3 was developed by the same Briarwood Farms people.

4 Q And do you know the attorney who  
5 represented Halley Estates II in the subdivision  
6 process?

7 A Yes, Martin Cornell, he's  
8 deceased. He was their attorney. Their attorney  
9 now is Tracy & Edwards, John Edwards.

10 MR. HARRINGTON: Off the record.

11 (Brief recess)

12 MR. HARRINGTON: I would like to  
13 mark as Exhibit C what is styled Cover  
14 Sheet Preliminary Subdivision Halley  
15 Estates II, prepared by the firm of  
16 Atzl, Scatassa and Zigler, which was  
17 last revised August 2, 2006.

18 THE WITNESS: What is the  
19 original date way down on the bottom  
20 there?

21 MR. HARRINGTON: The original  
22 date is January 25th, 2002.

23 THE WITNESS: Six years ago.

24 MR. HARRINGTON: And it's  
25 comprised of a total of 21

1 P.J. Corless

2 drawings. We will mark that C.

3 (Cover Sheet Preliminary

4 Subdivision Halley Estates II was

5 marked as Defendant's Exhibit C for

6 identification.)

7 Q Can I ask you, Mr. Corless, just for  
8 a second, I'll represent to you that we obtained  
9 this from Briarwood Farm, but if you could look  
10 at Exhibit C and if that refreshes your  
11 recollection that's a true and accurate copy of a  
12 set of subdivision drawings that were submitted  
13 to the planning board which you reviewed in your  
14 capacity as village engineer?

15 A I've seen a later one than this but  
16 this is reasonably representative of what they  
17 have.

18 Q When you say you've seen a later  
19 one?

20 A There is a water easement that's  
21 been added somewhere along.

22 Q Since when?

23 A I don't know, last couple of months,  
24 water supply.

25 Q I noticed when I got here a little

1 P.J. Corless

2 early, I noticed that there is a planning board  
3 meeting here tonight, correct?

4 A No, there was a TAC meeting this  
5 morning. There is a planning board meeting April  
6 10th. Do you want to know for sure?

7 MR. HARRINGTON: Can I mark this  
8 as the next exhibit?

9 (One-page village calendar was  
10 marked as Defendant's Exhibit D for  
11 identification.)

12 Q Let me just show you what I marked  
13 as Exhibit D for identification, the TAC calendar  
14 for the Village of Pomona scheduled for this  
15 evening?

16 THE WITNESS: Today, this  
17 morning.

18 Q This morning, I'm sorry.

19 A Isn't there a time on it?

20 Q Yes, there is, today, 10:00 a.m.  
21 And did you attend that meeting?

22 A I did.

23 Q Was the Halley Estates II  
24 Subdivision on?

25 A Yes, it was.

1 P.J. Corless

2 Q It says on Exhibit D that it was on  
3 for the purpose of final subdivision plan  
4 approval?

5 A Yes.

6 Q Forty-lot subdivision.

7 A That's correct.

8 Q Today, has the applicant for Halley  
9 Estates II secured final subdivision approval?

10 A No, they have not. John at silver  
11 first name was here on behalf of the applicant  
12 and he requested that a public hearing be set for  
13 the April planning board meeting, to give final  
14 approval that would be a planning board action,  
15 and that requires a public hearing and  
16 discussion, et cetera.

17 Q When is that scheduled for?

18 A April 10th.

19 Q That's the public hearing, correct?

20 A That's the public hearing.

21 Q And what are the odds, based upon  
22 your experience, that there will be approval  
23 granted that evening?

24 MR. HASPEL: We're bookmakers

25 now?

1 P.J. Corless

2 MR. HARRINGTON: And I'm not  
3 being a wise guy.

4 A Very, very slim. Normally the  
5 purpose of the public hearing is to allow the  
6 neighbors and the residents an opportunity to  
7 comment on the proposed action. Usually the  
8 planning board does not close the hearing the  
9 first night regardless of what the comments  
10 are. So that would be carried over to May. And  
11 then we would meet once a month. At the May  
12 meeting if the comments are resolved to their  
13 satisfaction, not to some technical satisfaction,  
14 to their satisfaction, then they could close the  
15 hearing and they have 45 days. They would not  
16 vote that night either. There are five people,  
17 and if they were in agreement, they would vote up  
18 or down at the following meeting.

19 Q So it's fair to say that at this  
20 point in time, the Halley Estates II, the  
21 applicant for the Halley Estates II subdivision  
22 hasn't secured any steep slope approvals.

23 A No.

24 Q And you say that rather  
25 emphatically?

1 P.J. Corless

2 A There is nothing related to this  
3 application until the final map is filed with the  
4 county clerk. That makes the subdivision of the  
5 property. They are very much along in the  
6 process, 90 percent, but they are not there.

7 MR. HARRINGTON: Okay. Let me  
8 have marked as Exhibit C-1 Drawing  
9 number seven from Exhibit C, it's the  
10 drawing entitled "Disturbed Slope Map."

11 (Disturbed Slope Map was marked  
12 as Defendant's Exhibit C-1 for  
13 identification.)

14 Q Let me show you, Mr. Corless what we  
15 have marked as Exhibit C-1. I'll represent to  
16 you it's an exact copy of drawing seven on  
17 Exhibit C. Do you recall having seen this on or  
18 about August 2006 in conjunction with the  
19 planning board's review of this application?

20 A Yes.

21 Q How long has this application been  
22 pending before the planning board?

23 A The initial application was March of  
24 '01. You see the date on the bottom.

25 Q Yes. And as a practical matter,



1 P.J. Corless

2 they may have been in a couple of meetings before  
3 that, just to chat about the project.

4 A Sure.

5 Q Based upon your experience, what was  
6 the purpose of this disturbed slope map as it  
7 related to the approval process?

8 A The purpose was to identify those  
9 areas of this track of 66 acres and the relative  
10 slopes, breaking them down into four categories,  
11 up to 15 percent, 15 to 25, 25 to 35, and greater  
12 than 35.

13 Q Okay. And this map depicts each of  
14 the forty proposed lots, correct?

15 A Correct.

16 Q And it also depicts each of those  
17 hypothetical houses that we talked about a moment  
18 ago, correct?

19 A Right, just for accuracy, there will  
20 be 41 lots platted. One lot will be a municipal  
21 lot for the detention basin, so there are forty  
22 building lots.

23 Q Thank you. And this map depicts --  
24 let's go through each of the lots, because first  
25 let's talk about the roads. The roads that are

1 P.J. Corless

2 proposed as it relates to this map before you, do  
3 they go through areas that are designated as very  
4 steep slopes?

5 A Very steep? I'm trying to match up  
6 -- they go through moderately steep. It does  
7 appear that it goes through some very steep  
8 areas, yes.

9 Q And --

10 A One little piece here.

11 Q And that would be between lots seven  
12 and eight?

13 A Yes, seven and eight.

14 Q And ultimately if and when final  
15 subdivision approval is granted, that would  
16 require a steep slope permit?

17 A Yes, it would be given a steep slope  
18 permit for constructing that road there.

19 Q Let's look at each of the individual  
20 building lots. Looking at building lot number  
21 one?

22 A Okay.

23 Q There is a hypothetical house  
24 depicted on that, correct?

25 A Correct.

1 P.J. Corless

2 Q The drawing reflects that there are  
3 very steep slopes on this lot?

4 A Looks like very steep slopes, yes.

5 Q Based upon --

6 A Yes, looks like the cross-section is  
7 very steep slopes, there are some.

8 Q Okay. And how about with respect to  
9 lot two?

10 A Yes, right where the home is  
11 proposed.

12 Q And how about lot three, same thing?

13 A Same thing.

14 Q Both of those homes are located  
15 right amidst very steep slopes?

16 A Very steep or moderately steep. I  
17 can't tell the difference in the coloration.

18 Q What about four.

19 A Four is the same, five is the same,  
20 six is the same.

21 Q How about lot seven?

22 A Yes, seven is the same. Eight and  
23 nine and ten and eleven, twelve, thirteen,  
24 yes. Fourteen, no.

25 Q But there are steep slopes with

1 P.J. Corless

2 respect to the proposed driveway?

3 A Yes, there are.

4 Q And that would require a permit as  
5 well?

6 A That's correct.

7 Q How about lot 15?

8 A The house is in steep slope on 15,  
9 on 16, a portion on 17, a portion on 18, a  
10 portion on 19, a portion on 20, a portion on 21.  
11 22 and 23 are without disturbance of steep  
12 slopes.

13 Q Lot 24?

14 A Twenty-four yes, disturbance; 25  
15 disturbance; 26 disturbance; 27 disturbance; 29  
16 disturbance; 29 disturbance; 30 there is no  
17 disturbance; 31 there is disturbance; 32 there is  
18 disturbance; 33 there is disturbances just for  
19 driveway; 34 there is disturbance; 35 disturbance  
20 driveway only; 36 there is disturbance, driveway  
21 only; 37; 38; 39; and 40 are without disturbance.

22 Q With respect to each of the lots  
23 that you identified as there being a disturbance,  
24 since it involved the planning board, a steep  
25 slope permit would be required from the planning

1 P.J. Corless

2 board?

3 A Yes. And what the planning board  
4 has done is given a steep slope permit for the  
5 project based upon these forty lots, and then  
6 individual houses will come back as they exceed  
7 their footprint.

8 Q Let me take a step back. Has there  
9 been final subdivision approval yet?

10 A No.

11 Q So there has been no steep slope  
12 approval for this subdivision yet?

13 A Not yet.

14 Q Presuming that final subdivision  
15 approval is granted, it will be granted for these  
16 hypothetical, steep slope approvals will be  
17 granted for the hypothetical houses that are  
18 depicted?

19 A In those locations.

20 Q In those locations, right.

21 A Yes.

22 Q And if the developer or homeowner,  
23 as the case may be, ultimately wants to vary the  
24 location of the house or the driveway, then they  
25 would have to come back and go through the steep

1 P.J. Corless

2 slopes process again, correct?

3 A Correct, if he or she is going to  
4 disturb the slopes.

5 Q To your knowledge, and this is the  
6 last time I will ask this question, I promise;  
7 I've asked it twice. To date, has any steep  
8 slope permits been issued for this particular  
9 project?

10 A No.

11 Q Before any building permits can be  
12 issued with respect to any individual lot, a  
13 steep slope permit would be necessary for those  
14 impacted lots that we just discussed?

15 A That's correct. But as of now no  
16 lots exist. It is one parcel.

17 Q Right.

18 A That's not until the final plat.

19 Q Right. Now, in a situation where  
20 you have very steep slopes on a particular lot --

21 A Right.

22 Q -- what impact, if any, does that  
23 have on the construction of a home on that lot?  
24 And let's use for example --

25 A Use this one, we moved the house

1 P.J. Corless

2 over here (indicating).

3 Q Okay, that's lot number seven.

4 A Yes.

5 Q That's extremely steep slopes,  
6 correct?

7 A Yes, so what the applicant's  
8 surveyor or engineer would do is try to  
9 construct, configure a lot that would allow him  
10 room outside of that steeped area and build a  
11 house outside of it, so he wouldn't have to  
12 impact it. But there are some times when he has  
13 no choice.

14 Q And that's under the category of  
15 very steep slope?

16 A Yes, very steep.

17 Q I appreciate that the quality of  
18 this map is not completely clear, because it's  
19 been copied a number of times. But using as an  
20 example, lot number nine.

21 A Yes, well, in lot number nine's case  
22 they have identified some area in the building  
23 envelope, and the house has been sited to the  
24 front of the envelope. It looks like it's the  
25 same size as the other homes, but it has been

1 P.J. Corless

2 tilted and turned so that it doesn't have to be  
3 built within that steep slope area, although I  
4 suspect that some of the backyard, when the  
5 homeowner gets in there, may be impacted. But  
6 that's a different issue.

7 Q Well this dark area, number nine, is  
8 an extremely steep slope, right?

9 A That's correct.

10 Q The balance is either a very steep  
11 slope or a moderately steep slope, right?

12 A Moderately steep slope, correct.

13 Q We can't tell?

14 A We can't tell.

15 MR. HARRINGTON: Okay. Mark this  
16 as the last exhibit, documents that my  
17 office received pursuant to a FOIL  
18 request from Carolyn LaChiana. It's a  
19 packet of document in response to a  
20 FOIL request, the first page is a card  
21 entitled Village of Pomona, High Gate  
22 Estates. If we could just mark that as  
23 Exhibit E.

24 (Documents received pursuant to  
25 FOIL request were marked as Defendant's



1 P.J. Corless

2 Exhibit E for identification.)

3 Q I represent to you, Mr. Corless,  
4 these are copies of minutes relating to the High  
5 Gate Estates subdivision application. You  
6 testified earlier that this was one of the  
7 subdivision applications that you were involved  
8 with as engineer that involved steep slope  
9 permits, correct?

10 A Yes.

11 Q And rather than have you go through  
12 the minutes, I just want to -- is it typical  
13 protocol for the planning board to review minutes  
14 from the prior meeting?

15 A Usually at the next meeting.

16 Q Okay. And is it typical protocol  
17 that they review them and approve them as  
18 accurate.

19 A Their practice is that they review  
20 them at the next meeting. They do not always get  
21 consensus and sometimes the vote is taken the  
22 following month. But they do try to do it each  
23 month, for the last month.

24 Q I'm just trying to save some time.

25 A Yes, their practice, yes.

1 P.J. Corless

2 Q These minutes say what they  
3 say. They have been approved, rather than drag  
4 you through?

5 A What they are, they are, yes.

6 Q So my question to you is, do you  
7 recall the approval process for the steep slopes  
8 in this --

9 A Sure.

10 Q And how would you characterize it  
11 with respect to its length? Was it short and  
12 sweet, was it typical, was it long?

13 A High Gate was typically long.

14 Q Okay.

15 A Long being defined as several  
16 meetings, more than two.

17 Q And how many months between the  
18 application for the steep slope permits and the  
19 issuance of them?

20 A Six months or more.

21 Q And this involved the latter  
22 scenario that you described where the applicant  
23 actually came back after final subdivision  
24 approval and asked for --

25 A Correct.

1 P.J. Corless

2 Q -- permits because they wanted to  
3 move the houses around?

4 A Correct.

5 MR. HARRINGTON: I have no  
6 further questions. Thank you.

7 THE WITNESS: That's it?

8 MR. HARRINGTON: That's it.

9 MR. HASPEL: I have a couple.

10 MR. HARRINGTON: I may have some  
11 more but --

12 MR. HASPEL: I just want to make  
13 sure I understand.

14 EXAMINATION

15 BY MR. HASPEL:

16 Q These I'm showing the witness C-1  
17 for identification, which is the page, disturbed  
18 slope map, that Mr. Harrington was questioning  
19 about. Each of these lots have what we have now  
20 defined as a mythical footprint of a house?

21 A Correct.

22 Q Was it your testimony that unless  
23 the ultimately designed house fits into that  
24 footprint -- let's go one step back. Let's  
25 assume for one second that this map receives

1 P.J. Corless

2 final subdivision approval, okay. Under that  
3 assumption, was it your testimony that unless the  
4 proposed house at the time that a house is being  
5 planned fits within the footprint that's  
6 designated as the mythical footprint on this map,  
7 a new process would have to take place?

8 MR. HARRINGTON: Objection to  
9 form.

10 A Yes, that's correct. If an  
11 applicant came in with a building that was  
12 slightly less than the approved one, and had an  
13 adjusted driveway to accommodate it or something  
14 like that, on my action I would send it back to  
15 the planning board for approval.

16 If it complied with it completely as  
17 approved by the planning board, we would process  
18 without going further to the planning board.

19 Q I'm even more confused now. If the  
20 footprint of the proposed house fits within the  
21 box, do you have to go back?

22 A No.

23 Q Okay. If the footprint of the house  
24 was going to move a nominal amount, would you  
25 have to go back?

1 P.J. Corless

2 A It's my practice to send it back if  
3 there is any change.

4 Q Any change whatsoever?

5 A The planning board chairman prefers,  
6 and it's not in the law, she prefers to see any  
7 change, so I have complied with that request.

8 Q How long did you say we had this  
9 steep slope ordinance in place?

10 A '98.

11 Q In your experience, what percentage  
12 of steep slope applications after a subdivision  
13 approval is done, after final plat is filed, what  
14 percentage of steep slope applications, in your  
15 experience, have been declined?

16 MR. HARRINGTON: Objection. You  
17 can answer.

18 A I need to understand the question.  
19 After the map is filed.

20 Q Let me take you through it. Let's  
21 say this map is the final plat?

22 A Okay.

23 Q And at that point in time, every one  
24 of these lots came in?

25 A Approved.

1 P.J. Corless

2 Q In your experience, throughout the  
3 Village of Pomona, what percentage of steep slope  
4 applications are denied?

5 A None would be denied but more than  
6 90 percent of them would be sent back to the  
7 planning board as a practical matter.

8 Q When you say, "sent back to the  
9 planning board," once it gets sent back to the  
10 planning board, in your experience, how many  
11 times has a builder been denied the opportunity  
12 to build on that lot?

13 A Never been denied. There may be  
14 changes, but never has been denied.

15 Q When you say changes, can you  
16 describe what kind of changes you are referring  
17 to?

18 A He might be asked to flatten the  
19 slope of the driveway or not make the length of  
20 the house as long as it's proposed, or perhaps  
21 change the imperviousness of one of the surfaces,  
22 of a driveway. I mean there are lots of more  
23 tweaking of details rather than an approval being  
24 denied.

25 Q You used the word tweaking. Is that

1 P.J. Corless

2 pretty much what happens in this process, a  
3 tweaking, rather than a massive relook?

4 MR. HARRINGTON: Objection.

5 Q You can answer.

6 A Yes, in general the applicants come  
7 in for much bigger houses in this village, during  
8 the upsurge in the economy, and they generally  
9 are allowed to build as large as they want, but  
10 they have trade-offs with more extensive  
11 landscaping or some retaining walls and that kind  
12 of stuff. But if that's tweaking, that's what  
13 they do.

14 But they are generally not denied  
15 the right to build.

16 Q When you say much larger houses, are  
17 we talking about houses twice the size of the  
18 mythological footprint?

19 A Yes.

20 Q Three times the size?

21 A Yes.

22 Q Four times the size?

23 A Most of these houses are shown at  
24 3,000 footprint at the most, maybe 2800, and  
25 we're getting 6,000 and 8,000 very routinely as

1 P.J. Corless

2 of last year. I don't know this year.

3 Q So it's your testimony that you go  
4 back to the planning board, you tweak it, you  
5 have different landscaping, you may have to do a  
6 little bit more excavation for a driveway or  
7 something like that; that's what it will take to  
8 get the approval?

9 MR. HARRINGTON: Object to the  
10 form.

11 A You may have to do all those things,  
12 and all those things are obviously money.  
13 Usually those changes are in the hundreds of  
14 thousands of dollars, not in the neighborhood of  
15 \$5,000.

16 Q That's when you are talking about  
17 creating something larger than the footprint?

18 A Yes, bigger driveways, bigger walls.

19 Q I assume it would be proportional to  
20 a smaller change?

21 A Sure.

22 Q So you are not talking a hundred  
23 thousand dollars worth of changes on a  
24 ten-percent growth of the footprint?

25 MR. HARRINGTON: Objection.



1 P.J. Corless

2 A Not generally, no.

3 Q Now, you testified earlier as to  
4 intent of the ordinance?

5 A Yes.

6 Q Did you participate in the drafting  
7 of the ordinances?

8 A Yes.

9 Q Could you describe how you  
10 participated?

11 A More in a technical aspect of what  
12 the slopes are and what percentages, et cetera,  
13 but not in the legislative intent of the elected  
14 board of trustees, that was their decision.

15 Q As they were going through making  
16 their decision, were you consulting the  
17 legislators, or were they asking to consult with  
18 you?

19 A The legislators asked that the  
20 planning board and engineer participated in  
21 workshops about the intent of this steep slope  
22 law and what was practical and what was  
23 reasonable expense?

24 Q Do you have any personal knowledge  
25 of the discussions of intent outside the

1 P.J. Corless

2 ordinance's statements of intent?

3 A No, I do not. The discussion of  
4 this law went on for a couple of years. It  
5 didn't happen in one round, and I do know that  
6 they sought guidance from other municipalities,  
7 from California to North Carolina to wherever.

8 Q You indicated you were at the TAC  
9 meeting this morning?

10 A I was, yes.

11 Q The map that's before you or the  
12 group of maps, do these drawings represent  
13 substantial similarity to what is still being  
14 presented?

15 A Yes.

16 Q Was there any specific purpose of  
17 this morning's TAC meeting?

18 A Well, the senior partner here was  
19 sent in by his client to request a public hearing  
20 and we spent most of the discussion on procedural  
21 issues.

22 Q Getting it on to the agenda?

23 A Getting it on to the public hearing,  
24 what maps are required, if he needed additional  
25 one thing or another. But we were not at

1 P.J. Corless

2 substantive issues this morning.

3 Q When you view these maps and the  
4 planning board, if you have any knowledge of how  
5 they view it, and you look at them with these  
6 mythical footprints?

7 A Right.

8 Q What is the purpose of even putting  
9 the mythical footprint? Is it your working  
10 assumption that these footprints are not going to  
11 be the end-of-the-day planned houses?

12 MR. HARRINGTON: Objection.

13 Q Do you understand the question?

14 A Yes, I understand the question.

15 MR. HARRINGTON: Same objection.

16 A The planning board wants assurances  
17 that a house can be built on the lot that's going  
18 to be created. So to do that, the engineer has  
19 to create the size of the lot, show it, show a  
20 building and show a driveway, show the drainage.  
21 And a lot of that information then is filtered  
22 down to the amount of run-off for drainage. The  
23 water and sewer connections are shown on other  
24 sheets.

25 Q But you are doing this with the

1 P.J. Corless

2 working assumption that you've going to be doing  
3 it again at a later date, or may be doing it  
4 again at a later date?

5 MR. HARRINGTON: Objection.

6 A With various lots.

7 MR. HARRINGTON: Same objection.

8 A My advice to the planning board is  
9 that if this shape of the house was originally  
10 presented to us in the year 2000, by the time it  
11 gets built, and that might be normally three or  
12 four years later, the shape of the house will  
13 probably have changed.

14 We used to submit houses with 24 by  
15 42 as the standard Rockland County bilevel. Now  
16 they're showing these shapes. If you'll notice,  
17 this shape is the same for every lot. That's  
18 probably highly unlikely that everybody will  
19 build the same house with side-load garages, et  
20 cetera.

21 So what the applicant's engineer  
22 does is represent a reasonably sized house for  
23 this subdivision that might sell for X dollars,  
24 whatever it is, and that could be built. But as  
25 individual buyers come in they will make changes

1 P.J. Corless

2 and the builder will accommodate him to the best  
3 of his ability, and sometimes that requires going  
4 back to change it.

5 It doesn't make it easy for a track  
6 builder, but it's easy for a custom builder, who  
7 is more used to a longer process time.

8 Q I think I understand. So let me try  
9 to repeat it in a condensed form. You want the  
10 mythological houses so you can do your standard  
11 drainage analysis, water analysis, road analysis  
12 and that kind of stuff?

13 A Utilities, yes, right.

14 MR. HARRINGTON: Objection.

15 Q And at that point in time if there  
16 is going to be a steep slope issue on another  
17 design, you deal with all those issues within the  
18 context of that particular lot?

19 MR. HARRINGTON: Objection.

20 Q Is that correct?

21 A That's correct. You'll notice that  
22 all these homes have very small areas indicated  
23 for a deck, and obviously no, quote, in-ground  
24 swimming pools. We get many applications a year  
25 afterwards, someone, the homeowner is in there

1 P.J. Corless

2 now, they're going to put the pool in here or  
3 they're going to put a detached garage up or  
4 they're going to put up a hobby shop. People do  
5 lots of things with these.

6 Q If you put in a pool, would that  
7 require you to go back and do a steep slope  
8 analysis?

9 A You take the original analysis and  
10 that application will be placed against this. If  
11 they are fortunate enough to hire the firm that  
12 has that information, he just puts it on that --

13 Q But it would have to go through the  
14 same process?

15 A Same process, just as if he is  
16 building a house.

17 Q Same thing for a detached garage?

18 A Yes.

19 Q Workshop?

20 A Yes. It's a very rigorous  
21 ordinance.

22 MR. HASPEL: I have nothing  
23 further.

24 MR. HARRINGTON: I just have one  
25 follow up.

1 P.J. Corless

2 CONTINUED EXAMINATION

3 BY MR. HARRINGTON:

4 Q Mr. Corless, regardless of whether  
5 an applicant comes back when final subdivision  
6 approval is granted, say for example in Halley  
7 Estates, if and when it's granted, when that  
8 final plat is approved, the planning board will  
9 have considered, evaluated, all the criteria  
10 under the steep slope law, correct?

11 A Correct.

12 Q And will have issued for those  
13 hypothetical houses a permit for those houses,  
14 correct?

15 A Correct.

16 Q And in the event an individual or a  
17 developer subsequently decides, for whatever  
18 reason, to exceed the size of that hypothetical  
19 house, then he, she or it has to go back to the  
20 planning board for a new steep slope permit?

21 A Modified steep slope permit.

22 Q And they will have to go through the  
23 process that's articulated in the statute?

24 A Yes.

25 Q And the length of that process

1 P.J. Corless  
2 depends on the nature of the change, correct?

3 A Yes.

4 MR. HARRINGTON: Thank you.

5 THE WITNESS: You're welcome.

6 (Whereupon, at 2:24 p.m., the  
7 deposition was concluded.)

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P. J. CORLESS

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14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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18 NOTARY PUBLIC

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## 1 CERTIFICATION

2

3 I, Nancy Anne Flynn, Registered Professional  
4 reporter and a Notary Public in and for the State  
5 of New York, do hereby certify:

6 THAT the testimony hereinbefore set forth of  
7 said witness, duly sworn, was recorded by me; and

8 THAT the within transcript is a true record  
9 of the testimony given by P.J. CORLESS.

10 I further certify that I am not related,  
11 either by blood or marriage, to any of the parties  
12 to this action; and

13 THAT I am in no way interested in the outcome  
14 of this matter.

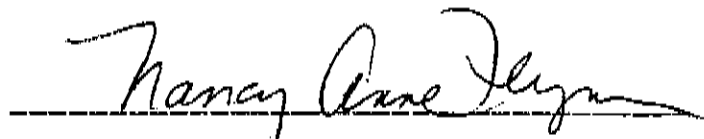
15 IN WITNESS WHEREOF, I have hereunto set my  
16 hand this 4th day of April 2008.

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20



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Nancy Anne Flynn, RPR

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